

Senate Bill No. 1023

Passed the Senate May 10, 2010

Secretary of the Senate

Passed the Assembly June 24, 2010

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2010, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 57077 of, and to add and repeal Sections 56853.5 and 56853.6 of, the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 1023, Wiggins. Special districts: consolidation and reorganization.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 requires a local agency formation commission to approve, without an election, a consolidation or reorganization of 2 or more local agencies, if a majority of the members of each of the legislative bodies of the agencies adopt substantially similar resolutions of application making proposals either for the consolidation of districts or for the reorganization of all or any part of the districts into a single local agency, as specified.

The Community Services District Law authorizes the organization of a community services district for various purposes, including, among others, the collection, treatment, or disposal of sewage, wastewater, recycled water, and stormwater, providing fire protection services, and providing public library services.

This bill would, until January 1, 2018, authorize the local agency formation commission to approve or conditionally approve an expedited reorganization of specified districts into a community services district, with the same powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the district proposed to be dissolved, unless the governing body of the district proposed to be dissolved files a resolution of objection with the commission, as specified.

The bill would also, until January 1, 2018, authorize the El Dorado County Local Agency Formation Commission to approve, disapprove, or conditionally approve an accelerated reorganization of the Tahoe Paradise Resort Improvement District under specified circumstances, and would declare the need for a special statute addressing that reorganization.

The people of the State of California do enact as follows:

SECTION 1. Section 56853.5 is added to the Government Code, to read:

56853.5. (a) In the case of an expedited reorganization, notwithstanding any provision of this division or the Community Services District Law (Division 3 (commencing with Section 61000) of Title 6), unless the governing body of the subject agency files a resolution of objection with the commission before the close of the hearing held pursuant to Section 56666, the commission may approve, disapprove, or conditionally approve, the expedited reorganization. If the commission approves or conditionally approves the expedited reorganization, the commission shall order the expedited reorganization without an election.

(b) If the governing body of the subject agency files a resolution of objection with the commission before the close of the hearing held pursuant to Section 56666, the commission shall disapprove the proposed expedited reorganization.

(c) The commission may order any material change to the terms and conditions of the expedited reorganization set forth in the proposal. The commission shall direct the executive officer to give the subject agency mailed notice of any change prior to ordering a change. The commission shall not, without the written consent of the subject agency, take any further action on the expedited reorganization for 30 days following that mailing.

(d) A proposal for an expedited reorganization shall include proposed terms and conditions that shall include at least all of the following:

(1) The proposed community services district is declared to be, and shall be deemed a community services district as if the district had been formed pursuant to the Community Services District Law (Division 3 (commencing with Section 61000) of Title 6). The exterior boundary and sphere of influence of the proposed community services district shall be the exterior boundary and sphere of influence of the district proposed to be dissolved.

(2) The proposed community services district succeeds to, and is vested with, the same powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the district proposed to be dissolved.

(3) The status, position, and rights of any officer or employee of the district proposed to be dissolved shall not be affected by the transfer and shall be retained by the person as an officer or employee of the proposed community services district.

(4) The proposed community services district shall have ownership, possession, and control of all books, records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, entitlements, agreements, contracts, claims, judgments, land, and other assets and property, real or personal, owned or leased by, connected with the administration of, or held for the benefit or use of, the district proposed to be dissolved.

(5) The unexpended balance as of the effective date of the expedited reorganization of any funds available for use by the district proposed to be dissolved shall be available for use by the proposed community services district.

(6) No payment for the use, or right of use, of any property, real or personal, acquired or constructed by the district proposed to be dissolved shall be required by reason of the succession pursuant to the expedited reorganization, nor shall any payment for the proposed community services district's acquisition of the powers, duties, responsibilities, obligations, liabilities, and jurisdiction be required by reason of that succession.

(7) All ordinances, rules, and regulations adopted by the district proposed to be dissolved in effect immediately preceding the effective date of the expedited reorganization, shall remain in effect and shall be fully enforceable unless amended or repealed by the proposed community services district, or until they expire by their own terms. Any statute, law, rule, or regulation in force as of the effective date of the expedited reorganization, or that may be enacted or adopted with reference to the district proposed to be dissolved shall mean the proposed community services district.

(8) All allocations of shares of property tax revenue pursuant to Part 0.5 (commencing with Section 50) of the Revenue and Taxation Code, special taxes, benefit assessments, fees, charges, or any other impositions of the district proposed to be dissolved shall remain in effect unless amended or repealed by the proposed community services district, or they expire by their own terms.

(9) The appropriations limit established pursuant to Division 9 (commencing with Section 7900) of Title 1 of the district proposed

to be dissolved shall be the appropriations limit of the proposed community services district.

(10) Any action by or against the district proposed to be dissolved shall not abate, but shall continue in the name of the proposed community services district, and the proposed community services district shall be substituted for the district proposed to be dissolved by the court in which the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

(11) No contract, lease, license, permit, entitlement, bond, or any other agreement to which the district proposed to be dissolved is a party shall be void or voidable by reason of the enactment of the expedited reorganization, but shall continue in effect, with the proposed community services district assuming all of the rights, obligations, liabilities, and duties of the district proposed to be dissolved.

(12) Any obligations, including, but not limited to, bonds and other indebtedness, of the district proposed to be dissolved shall be the obligations of the proposed community services district. Any continuing obligations or responsibilities of the district proposed to be dissolved for managing and maintaining bond issuances shall be transferred to the proposed community services district without impairment to any security contained in the bond instrument.

(e) If a board of supervisors is the governing body of a resort improvement district pursuant to Chapter 1 (commencing with Section 13000) of Division 11 of the Public Resources Code, then, notwithstanding paragraph (3) of subdivision (d), the proposed terms and conditions may provide for the election of an initial board of directors of a community services district pursuant to Chapter 1 (commencing with Section 61020) of Part 2 of Division 3 of Title 6.

(f) As used in this section, “expedited reorganization” means a reorganization that consists solely of the formation of a community services district and the dissolution of any of the following:

(1) A resort improvement district formed pursuant to the Resort Improvement District Law, Division 11 (commencing with Section 13000) of the Public Resources Code.

(2) The Montalvo Municipal Improvement District formed pursuant to Chapter 549 of the Statutes of 1955.

(3) The Bethel Island Municipal Improvement District formed pursuant to Chapter 22 of the Statutes of 1960.

(4) The Embarcadero Municipal Improvement District formed pursuant to Chapter 81 of the Statutes of 1960.

(g) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later statute which is enacted before January 1, 2018, deletes or extends that date.

SEC. 2. Section 56853.6 is added to the Government Code, to read:

56853.6. (a) In the case of an accelerated reorganization, notwithstanding any provision of this division or the Recreation and Park District Law (Chapter 4 (commencing with Section 5780) of Division 5 of the Public Resources Code), unless the governing body of the Tahoe Paradise Resort Improvement District files a resolution of objection with the El Dorado County Local Agency Formation Commission before the close of the hearing held pursuant to Section 56666, the commission may approve, disapprove, or conditionally approve, the accelerated reorganization. If the commission approves or conditionally approves the accelerated reorganization, the commission shall order the accelerated reorganization without an election.

(b) If the governing body of the Tahoe Paradise Resort Improvement District files a resolution of objection with the commission before the close of the hearing held pursuant to Section 56666, the commission shall disapprove the proposed accelerated reorganization.

(c) The commission may order any material change to the terms and conditions of the accelerated reorganization set forth in the proposal. The commission shall direct the executive officer to give the Tahoe Paradise Resort Improvement District mailed notice of any change prior to ordering a change. The commission shall not, without the written consent of the Tahoe Paradise Resort Improvement District, take any further action on the accelerated reorganization for 30 days following that mailing.

(d) A proposal for an accelerated reorganization shall include proposed terms and conditions that shall include, but are not limited to, all of the following:

(1) The proposed recreation and park district is declared to be, and shall be deemed, a recreation and park district as if the district had been formed pursuant to the Recreation and Park District Law

(Chapter 4 (commencing with Section 5780) of Division 5 of the Public Resources Code). The exterior boundary and sphere of influence of the proposed recreation and park district shall be the exterior boundary and sphere of influence of the Tahoe Paradise Resort Improvement District.

(2) The proposed recreation and park district succeeds to, and is vested with, the same powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the Tahoe Paradise Resort Improvement District.

(3) The status, position, and rights of any officer or employee of the Tahoe Paradise Resort Improvement District shall not be affected by the transfer and shall be retained by the person as an officer or employee of the proposed recreation and park district.

(4) The proposed recreation and park district shall have ownership, possession, and control of all books, records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, entitlements, agreements, contracts, claims, judgments, land, and other assets and property, real or personal, owned or leased by, connected with the administration of, or held for the benefit or use of, the Tahoe Paradise Resort Improvement District.

(5) The unexpended balance as of the effective date of the accelerated reorganization of any funds available for use by the Tahoe Paradise Resort Improvement District shall be available for use by the proposed recreation and park district.

(6) No payment for the use, or right of use, of any property, real or personal, acquired or constructed by the Tahoe Paradise Resort Improvement District shall be required by reason of the succession pursuant to the accelerated reorganization, nor shall any payment for the proposed recreation and park district's acquisition of the powers, duties, responsibilities, obligations, liabilities, and jurisdiction be required by reason of that succession.

(7) All ordinances, rules, and regulations adopted by the Tahoe Paradise Resort Improvement District in effect immediately preceding the effective date of the accelerated reorganization, shall remain in effect and shall be fully enforceable unless amended or repealed by the proposed recreation and park district, or until they expire by their own terms. Any statute, law, rule, or regulation in force as of the effective date of the accelerated reorganization, or that may be enacted or adopted with reference to the Tahoe

Paradise Resort Improvement District shall mean the proposed recreation and park district.

(8) All allocations of shares of property tax revenue pursuant to Part 0.5 (commencing with Section 50) of the Revenue and Taxation Code, special taxes, benefit assessments, fees, charges, or any other impositions of the Tahoe Paradise Resort Improvement District shall remain in effect unless amended or repealed by the proposed recreation and park district, or they expire by their own terms.

(9) The appropriations limit established pursuant to Division 9 (commencing with Section 7900) of Title 1 of the Tahoe Paradise Resort Improvement District shall be the appropriations limit of the proposed recreation and park district.

(10) Any action by or against the Tahoe Paradise Resort Improvement District shall not abate, but shall continue in the name of the proposed recreation and park district, and the proposed recreation and park district shall be substituted for the Tahoe Paradise Resort Improvement District by the court in which the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

(11) No contract, lease, license, permit, entitlement, bond, or any other agreement to which the Tahoe Paradise Resort Improvement District is a party shall be void or voidable by reason of the enactment of the accelerated reorganization, but shall continue in effect, with the proposed recreation and park district assuming all of the rights, obligations, liabilities, and duties of the Tahoe Paradise Resort Improvement District.

(12) Any obligations, including, but not limited to, bonds and other indebtedness, of the Tahoe Paradise Resort Improvement District shall be the obligations of the proposed recreation and park district. Any continuing obligations or responsibilities of the Tahoe Paradise Resort Improvement District for managing and maintaining bond issuances shall be transferred to the proposed recreation and park district without impairment to any security contained in the bond instrument.

(e) As used in this section, “accelerated reorganization” means a reorganization that consists solely of the dissolution of the Tahoe Paradise Resort Improvement District and the formation of a recreation and park district.

(f) This section shall remain in effect only until January 2, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 3. Section 57077 of the Government Code is amended to read:

57077. (a) If a change of organization consists of a dissolution, disincorporation, incorporation, establishment of a subsidiary district, consolidation, or merger, the commission shall do either of the following:

(1) Order the change of organization subject to confirmation of the voters, or in the case of a landowner-voter district, subject to confirmation by the landowners, unless otherwise stated in the formation provisions of the enabling statute of the district or otherwise authorized pursuant to Section 56854.

(2) Order the change of organization without election if it is a change of organization that meets the requirements of Section 56854, 57081, 57102, or 57107; otherwise, the commission shall take the action specified in paragraph (1).

(b) If a reorganization consists of one or more dissolutions, incorporations, formations, disincorporations, mergers, establishments of subsidiary districts, consolidations, or any combination of those proposals, the commission shall do either of the following:

(1) Order the reorganization subject to confirmation of the voters, or in the case of landowner-voter districts, subject to confirmation by the landowners, unless otherwise authorized pursuant to Section 56854.

(2) Order the reorganization without election if it is a reorganization that meets the requirements of Section 56853.5, 56853.6, 56854, 57081, 57102, 57107, or 57111; otherwise, the commission shall take the action specified in paragraph (1).

SEC. 4. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances of the El Dorado County Local Agency Formation Commission and the Tahoe Paradise Resort Improvement District. The facts constituting the special circumstances are:

The Tahoe Paradise Resort Improvement District is the only resort improvement district in the County of El Dorado. The El

Dorado County Local Agency Formation Commission seeks the opportunity to accelerate the procedures for the concurrent dissolution of the Tahoe Paradise Resort Improvement District and the formation of a recreation and park district as its replacement. The procedures for a reorganization or an expedited reorganization pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code) do not permit the El Dorado County Local Agency Formation Commission to convert the Tahoe Paradise Resort Improvement District into a recreation and park district without an election.

Approved _____, 2010

Governor